

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
WESTERN DIVISION**

STATE OF NORTH DAKOTA,

Plaintiff,

v.

THE UNITED STATES DEPARTMENT OF
THE INTERIOR; DEBRA HAALAND, in her
official capacity as Secretary of the Interior;
THE BUREAU OF LAND MANAGEMENT;
NADA CULVER, in her official capacity as
acting Director of the Bureau of Land
Management; and JOHN MEHLHOFF, in his
official capacity as the acting Director of the
Montana-Dakotas Bureau of Land
Management,

Defendants,

and

Center for Biological Diversity; Sierra Club;
Western Organization of Resource Councils;
and Dakota Resource Council,

Intervenor-Defendants.

Case No. 1:21-cv-00148-DMT-CRH (lead)
Case No. 1:23-cv-00004-DMT-CRH

**REVISED STATUS REPORT IN
RESPONSE TO ECF NO. 105
BEFORE FEBRUARY 2024 STATUS
CONFERENCE**

Pursuant to the Court's Order to Revise Status Report (Revised Order), ECF No. 105, Defendants respectfully submit the attached Declaration of Samantha Iron Shirt Before February 2024 Status Conference (Third Iron Shirt Declaration), in response to Paragraph 2 of the Court's Order. In preparing and submitting this revised status report, Defendants have worked diligently and in good faith to supply the Court with all the information reasonably available to the Department of the Interior that is responsive to

the Court's order. Nonetheless, Defendants continue to object to that Revised Order and preserve all objections to the Revised Order.

In response to Paragraph 2.a of the Court's Revised Order, Defendants provide Paragraphs 6 to 7 of the Third Iron Shirt Declaration.

In response to Paragraph 2.b of the Court's Revised Order, Defendants provide Paragraph 8 of and Exhibit 2 to the Third Iron Shirt Declaration.

In response to Paragraph 2.c of the Court's Revised Order, Defendants provide Paragraph 9 of and Exhibits 3 and 4 to the Third Iron Shirt Declaration.

In response to Paragraph 2.d of the Court's Revised Order, Defendants provide Paragraph 10 of the Third Iron Shirt Declaration.

In response to Paragraph 2.e of the Court's Revised Order, Defendants provide Paragraph 11 of the Third Iron Shirt Declaration.

In response to Paragraph 2.f of the Court's Revised Order, Defendants name Samantha Iron Shirt.

In response to Paragraph 2.g of the Court's Revised Order, Defendants provide Paragraph 12 of the Third Iron Shirt Declaration. Defendants further clarify that Footnote 3 of the Court's Revised Order does not accurately state the present legislative intent behind the Mineral Leasing Act (MLA), following Congressional reforms in 1987 and 2022. Although the Eighth Circuit observed in 1984 that the "broad purpose of the MLA was to provide incentives to explore new, unproven oil and gas areas *through noncompetitive leasing*, while assuring through competitive bidding adequate compensation to the government," *Arkla Expl. Co. v. Texas Oil & Gas Corp.*, 734 F.2d

347, 358 (8th Cir. 1984) (emphasis added), that observation does not account for subsequent Congressional action. Specifically, Congress substantially restricted noncompetitive leasing in 1987¹ and eliminated noncompetitive leasing altogether in 2022.² Accordingly, the 1984 statement about the purpose of noncompetitive leasing under the MLA has little application to the current MLA leasing scheme.

Respectfully submitted this 24th day of January 2024.

TODD KIM
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U.S. Department of Justice

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¹ Federal Onshore Oil and Gas Leasing Reform Act of 1987 (1987 Reform Act), Pub. L. No. 100-203, title V, subtitle B, § 5102(b), 101 Stat. 1330-257 (1987).

² Inflation Reduction Act (IRA) § 50262(e), Pub. L. No. 117-169, 136 Stat 1818, 2056–57.